

Jonathan S. Pollack

Attorney at Law
274 Madison Avenue
19th Floor

New York, NY 10016

Tel (212) 889-0761

Fax (212) 889-0279

MEMO ENDORSED

BY HAND

The Honorable Richard M. Berman
United States District Court
Southern District of New York
40 Center Street
Courtroom 706
New York, NY 10007

Re: Elissa Becker v Eber Bros. Wine and Liquor Corp. and Eber-NDC LLC
07 CV 4022 (RMB)

September 26, 2007

Please take up
discovery issues with
Magistrate Judge
Peck

SO ORDERED:
Date: 9/28/07 Richard M. Berman
Richard M. Berman, U.S.D.J.

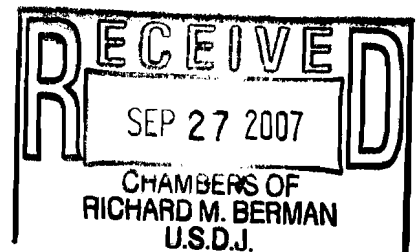
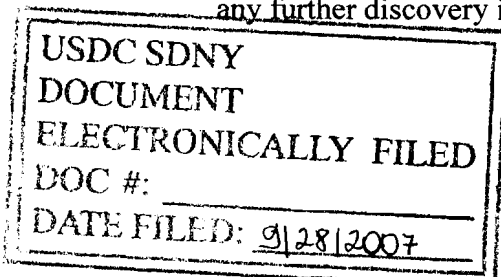
Dear Judge Berman:

This office represents the Plaintiff in the above captioned action.

Pursuant to Your Honor's Order of July 13, 2007 (the "Order"), discovery in this matter is to be completed by October 15, 2007.

In furtherance of the Order, on July 30, 2007, I noticed for deposition Lester Eber, ("Mr. Eber") the President of Defendant Eber Bros. Wine & Liquor Corporation; and Manager of Defendant Eber-NDC, LLC, for Monday, August 20, 2007 and Tuesday August 21, 2007. On August 17, 2007, the Friday before the scheduled depositions, Counsel for Defendants, for the first time, informed me that Mr. Eber would not be available to attend the deposition.

On August 17, 2007, I wrote Defendants' Counsel (copy enclosed) and agreed to reschedule the deposition provided that counsel propose a date for Mr. Eber's deposition no later than September 21, 2007, which would provide me with enough time to conduct any further discovery in light of the October 15, 2007 discovery cut off date.



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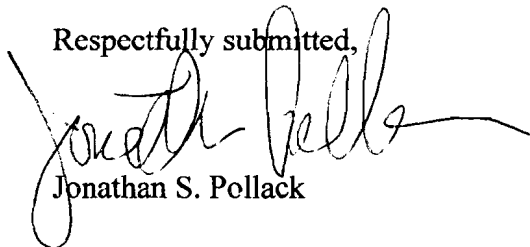
Not until over three weeks later, on September 11, 2007, did Opposing Counsel finally provided to me a date when Mr. Eber would be available for deposition on September 28, 2007.

Although Counsel for Defendants never noticed my client, Elissa Becker ("Ms. Becker"), for deposition, I agreed with Counsel that Ms. Becker would also be available on September 28, 2007. Accordingly, Ms. Becker has altered her schedule and will be available for deposition at my office on September 28, 2007.

On Friday, September 21, Counsel for Defendants informed me that Mr. Eber was no longer available on September 28th (despite the fact that such date was the one specifically selected by Mr. Eber) and requested a change of deposition date to Monday, October 1, 2007. I informed Counsel for Defendants that I am unable to depose Mr. Eber on October 1, 2007, but I offered to do so on October 3rd or October 4, 2007. To date, they have not responded. I reiterate that the deadline for completion of discovery is October 15, 2007.

In light of Defendants' repeated delays, cancellation of deposition dates and unwillingness to confirm a date for deposition, I respectfully request that Your Honor So Order that Mr. Eber appear for deposition at my office on either October 3rd or October 4th and further, that you appoint Magistrate Peck to supervise said discovery so as to best prevent further delays.

Respectfully submitted,



Jonathan S. Pollack

cc: Melanie Sarkis, Esq. (Attorney for Defendants/Via-Fax)
Ms. Elissa Becker
Steven E. Kurtz, Esq.